

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

MHN

JEFFERY LATHAM,  
Plaintiff,

Case No. 08-C-303

-vs.-

JOSEPH BURK, et al.,  
Defendants.HON. JAMES F. HOLDERMAN  
Presiding Judge

FILED

NOTICE OF FILINGTO: The Clerk Of The District Court  
United States Courthouse  
219 S. Dearborn Street  
Chicago, IL 60604JUN 30 2008 *sent*  
6-30-2008  
MICHAEL W. DOBBS  
CLERK, U.S. DISTRICT COURTPLEASE TAKE NOTICE, that on the 18 day of June, 2008, I have caused to be filed with the Clerk Of The U.S. District Court for the Northern District Of Illinois/Hon. James F. Holderman, at bar, the attached motion for relief from judgment./s/ Jeffery Latham  
JEFFERY LATHAMCERTIFICATE OF SERVICEI, JEFFERY LATHAM, do hereby certify that I have caused to be reserved on the above-named party the above-cited documents by placing same in the U.S. Mail via the Institutional Mail here at the Henry Hill C.C. with postage being pre-paid on the 18 day of June, 2008./s/ Jeffery Latham  
JEFFERY LATHAM  
Reg.No. B-30158  
600 Linwood Road  
P.O. Box 1700  
Galesburg, IL 61401

SUBSCRIBED AND SWORN TO BEFORE ME

this 18 day of June, 2008.Gareth L. Beams  
NOTARY PUBLIC

**FILED**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOISJUN 30 2008 *aw*  
6-30-2008  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURTJEFFERY LATHAM,  
Plaintiff,

Case No. 08-C-303

-Vs.-

JOSEPH BURK, et al.,  
Defendants.HON. JAMES F. HOLDERMEN  
Presiding JudgeMOTION FOR RELIEF FROM JUDGMENT  
AND MEMORANDUM OF LAW

Now Come's Plaintiff-Pro Se. Jeffery Latham, and moves this Honorable Court pursuant to the Federal Rules Of Civil Procedure, Rule 60(b); 735 ILCS 5/8-1001; 5/8-1002; 5/8-1003; 5/8-1005; 5/8-1006; and the Revestment Doctrine. Insupport of same Plaintiff -f states the following:

APPLICABLE LAW'S AND DUTIES

Revestment Doctrine, allows a party to revest a Court with Jurisdiction when said party actively participated in proceedings which were/are inconsistent with intrinsic merit of the prior judgment (see People v. Watkins, 258 Ill.Dec. 732, 757 N.E.2d 117 (Ill. App. 2Dist. 2001)).

Federal Rules Of Civil Procedure, Rule 60(b) Relief from a judgment or order/(b) Grounds for relief from a Final Judgment, Order, or Proceeding: On motion and just terms, the Court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (6) any other reason that justifies relief.

735 ILCS Part 10 Judicial Notice

735 ILCS 5/8-1001 Court's of original jurisdiction: Every Court of original jurisdiction, in addition to the matters of which Courts of original jurisdiction have heretofore been required to take judicial notice, shall take judicial notice of the following:-: All rules of practice in force in the Court from which a case has been transferred by change of place, or trial, or otherwise.

&35 ILCS 5/8-1002 Courts of Appellate Jurisdiction: Upon the review by any Court of Appellate Jurisdiction of a judgment or order of a Circuit Court the Court of appellate jurisdiction shall take judicial notice of all matters of which the circuit court were required to take judicial notice, including all rules of practice adopted by the Circuit Court. In case of review by the Supreme Court of a judgment or order of the Appellate Court, the Supreme Court shall take judicial notice of all matters

(1)

of which the Circuit Court was required to take judicial notice as well as of the rules of practice adopted by the Circuit Court, the judgment or order which has been reviewed by the Appellate Court.

735 ILCS 5/8-1003 Common Law Statutes: Every Court of this State shall take judicial notice of the common law and statutes of every State, territory and other jurisdiction of the United States.

735 ILCS 5/8-1006 Evidence as to laws of other jurisdictions: Any party may present to the Court/trial Court any admissible evidence of such law, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in pleadings or otherwise.

1. Plaintiff brings this Rule 60(b) Motion For Relief From Judgment before this Honorable Court of the United States District Court for the Northern District Of Illinois, pursuant to the Revestment Doctrine requesting said Court to revest itself with jurisdiction to hear and rule on the intrinsic merit of said Rule 60(b) motion as same relates to this Court's own Court Order of May 29th/2008, wherein said Court makes it abundantly clear that although a District Court does not have jurisdiction to grant a Rule 60 (b) while an appeal is pending. Nonetheless, if, such a motion was to be filed said District Court notes that it may inform the Appellate Court that it would be inclined to grant such a motion whereby the Appellate Court may [remand] the case. (see *Boyko v. Anderson*, 185 F.3d 672, 675-76 (7th Cir. 1999); *Brown v. United States*, 976 F.2d 1104, 1110-11(7th Cir.1992))

2. The rationale the District Court relied on for its reasoning is that through further review of the complaint reveals that Plaintiff may have stated a timely claim of retaliation. (see *Hoskins v. Lenear*, 395 F.3d 372,375(7th Cir.2005) And, (*Babcock v. White*, 102 F.3d 267,275(7th Cir.1996) Moreover, that the ruling on Plaintiffs motion to proceed in forma pauperis in the District Court should have been based solely on Plaintiffs ability to pay the filing fee and not on the merits of the case. (see *Hains v. Washington*, 131 F.3d 1248,1250(7th Cir .1997))

3. When a Court of Original Jurisdiction has made an obvious error pursuant to the final judgment of a claim which has deprived a litigant of his day in Court, said Court of Original Jurisdiction should be allowed to exercise its Supervisory Authority to hear/rule on a motion such as Plaintiffs Rule 60(b) motion in that not only does said Court's competent jurisdiction have a Right but a Duty to correct itself and restore Plaintiffs Constitutional Rights under the State Of Illinois and Federal Constitution(s).

(see Plaintiffs Exhibit-(A), which is the U.S. District Court's Order of May 29th/2008)

#### LEGAL STANDARD

With respect to 735 ILCS 5/8-1006, Latham Defendants are not parties to a suit before being served with process, [see Neals v. No-rwood, 59 F.3d 530,532(5th Cir.1995)], as such the rulings set-forth in the Courts Order of May 29th/2008, are not binding upon them.

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In determining whether a complaint states a claim for purposes of 28 U.S.C. § 1915A, another provision of the PLRA, the Court is required to review complaints filed by prisoners against officers or employees of governmental entities and dismiss any portion of the complaint it finds frivolous, malicious, fails to state a claim upon which relief may be granted, or seek monetary relief from a defendant immune from relief. The Court is directed, in effect, to make and rule on its own motion to dismiss the complaint prior to service. And further determination of whether a complaint states a claim for the purposes of 28 U.S.C. § 1915A, the Court applies the standard applied in addressing an adversarial motion to dismiss under Rule 12(b)(6). A motion to dismiss should not be granted unless the Court concludes that "no relief" could be granted under any set of facts that could be proven consistent with the allegations. (See Hishon v. King & Spalding, 467 U.S. 69,73(1984) A complaint should not be dismissed unless it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim that would demonstrate an entitlement to relief. (see Vickery v. Jones, 100 F.3d 1334,1341(7th Cir.1996) When analyzing the dismissal of a complaint under Fed.R.Civ.P. 12(b)(6), the Court assumes/accepts that the alleged facts contained in the complaint as true and draw every reasonable inference in the Plaintiffs favor. (see Fries v. Helsper, 146 F.3d 452,457 (7th Cir.1998); Henderson v. Sheahan, 196 F.3d 839,845(7th Cir. 1999)

A pro se complaint is held to a less stringent standard than that of a complaint drafted by an attorney, [id. at 845-46], and for a Pro Se Plaintiff the Court are to consider the allegations contained in all documents filed with the Court. (see Gutierrez v. Peters, 111 F.3d 1364,1367 & n. 2 (7th Cir.1997); Swofford v. Mandrell, 969 F.2d 547,549(7th Cir.1992)

Illinois two-year statute of limitation for personal injury claims, [735 ILCS 5/13-202] governs §1983 claims arising in Illinois. (see Kelly v. City Of Chicago, 4 F.3d 509,510(7th Cir.1993) Latham being subjected to retaliatory punishment was not able

to adequately prosecute his claims against the Defendants given their retaliatory tactics employed against him as same relates to the purposeful discarding of all of Plaintiffs legal material [meaning: all legal mail; documents and or papers, including grievances, books, etc.] (see Plaintiffs Exhibit-(B), which is Plaintiffs resident personal property inventory record pursuant to his transfer from Stateville C.C. to the Menard C.C.) An observation provides that there wasn't any legal papers, documents, nor books shipped along with Plaintiffs other personal property items. This in-of-itself speaks volumes in that for one to believe that Plaintiff being incarcerated for an extended number of years and not have any legal papers, books, and or documents that person would need an extremely vivid imagination. It's an absurdity! When considering the continual sequence of events, the discrimination, threats, intimidation, and other forms of retaliatory measures taken against Plaintiff by the Defendants there can be no doubt as to whether Plaintiff has stated a cause of action under retaliation and therefore the claims which were before the Court are in fact timely. (see Plaintiffs Exhibit-(A)) In this Court's own Order said Court makes it clear as to its understanding of the progression of events. The Court states: "under further review the complaint reveals that Plaintiff may have stated a timely claim of retaliation.

#### RETALIATORY PUNISHMENT

##### (A) Charging Officer(s) and Official(s)

While incarcerated at the Stateville Correctional Center Plaintiff Latham, was housed in the segregation unit [F-House, cell #252] when Sgt. Grant, while smoking a cigarette in a non-smoking unit upon completion flipped the cigarette but in a near-by trash can which in turn caught fire. Said fire was left by Sgt. Grant [and several other Officers and Officials] to its own devices and burned for what seemed hours bellowing toxic smoke throughout the entire housing unit [F-House is the last round house /round cellhouse in the entire United States]. Several inmates verbally complained exchanging words with the officers who responded by opening an inmates cell door and began beating and kicking him about the head while attempting to spray mace in his face. Another inmate complaining of this abuse was himself maced by two Officers when they dropped two canisters of mace in his cell. Given the amount of smoke coupled with the mace literally fumigated what appeared the entire housing unit. Plaintiff is asthmatic and also suffers from heat problems. He immediately made these health concerns known to several officers and or officials informing them that he was having an extremely hard time breathing. To no avail, in that his request to be seen by a medic fell on deaf ears for an extended period of time.

(4)

Once Med-tec Thomas appeared Plaintiff requested a breathing treatment, only to be refused as Thomas vehemently exclaimed "this is what happens when you F--- with Staff"!!! After the incident in question [the subsequent fire and denial of medical treatment] Plaintiff was discriminated against by Sgt. Grant accompanied by other officers and officials. Attempts were made to intimidate him. He was threatened by Lt. Sawyer and Sgt. Grant to the affect that if he continued with his grievance process concerning the fire and associated events there would be consequences and repercussions. Plaintiff's mail would come up missing, his phone calls would be cut-off in the middle of speaking with family and his legal representatives. And still he pressed on with his grievance procedure only to be informed that he was being transferred to the southern most part of the State, to the Menard Correctional Center "and he was". Their completion was to discard all of Plaintiff's legal materials!!!

(B) Applicable Law's And Duties/Administrative And Otherwise

Constitution Of The State Of Illinois/Bill Of Rights

Section 4, Freedom Of Speech:

All persons may speak, write and publish freely, being responsible for the abuse of that liberty. In trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

Section 5, Right To Assemble And Petition:

The people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances.

Section 12, Right To Remedy And Justice:

Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly.

The Department Of Corrections has no general nor common law powers in that it is a creation of the Unified Code Of Corrections and must find its power in the Code [S.H.A. 730 ILCS 5/1-1-1 et seq.] Hadley v. IDOC, 840 N.E.2d 748.

730 ILCS 5/1-1-2(c) Purposes:

The purpose of the Code Of Corrections is to: Prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents.

730 ILCS 5/3-8-8 Grievances:

(a) The Director shall establish procedures to review the grievances of committed persons. The Director may establish one or more administrative review boards within the Department to review grievances. A committed persons right to file grievances shall not be restricted.

Plaintiff made clear throughout his complaint that Defendants [Lt. Sawyer and Sgt. Grant] without any thought of reprisal on any number of occasions personally and verbally threatened Plaintiff with retaliation if he were to proceed on/and continue with his grievance process pursuant to the incident in question [the fire]. That said Defendants not only threatened but did in fact seize the opportunity to conspire and facilitate discriminatory and retaliatory measures against Plaintiff through the withholding of medical treatment while the fire was still in process and or immediately thereafter. That his mail was withheld and his phone calls were purposely cut-off at the behest of the Defendants. The final insult came in the form of Plaintiff's untimely transfer to the Menard Correctional Center, which is some 300 or better miles from the cities of Joliet and Chicago. Plaintiff is incarcerated/was incarcerated in Joliet at Stateville C.C. and his family resides in Chicago. [Mind you, I said untimely transfer,,, in that Plaintiff never requested to be transferred to any other institution at all and that this was previously threatened by the Defendants Lt. Sawyer and Sgt. Grant]. To transfer an inmate to Menard C.C. is a tactic employed against inmates who challenge their treatment and or confinement at the hands of Stateville's officers and officials. A Menard C.C. transfer affirmatively destroys that inmate's lines of communication with family and legal counsel making it all but impossible to adequately prosecute his claim before the Courts. 300 and some-odd miles will provide very few if any visits and a phone call is upwards of \$26 to \$30 dollars for one call!

A complaint states a claim for retaliation only if it sets forth "chronology of events from which retaliation may plausibly be inferred". *Zimmerman v. Tribble*, 226 F.3d 568, 573 (7th Cir. 2000) (quoting *Cain*, 857 F.2d at 1143 n. 6)

A conspiracy is an agreement,,, in *Kunik v. Racine County*, 946 F.2d 1574, 1580 (7th Cir. 1991), the Court explained that while the requisite agreement need not be overt, the alleged acts must be sufficient that an inference can be made when the alleged conspirators' actions are likely to have been undertaken without an agreement, at least "a whiff of the alleged conspirators' assent must be apparent in a complaint".

Acts which are otherwise permissible are impermissible if done for retaliatory reasons. Even though it is extremely apparent from the pleadings that Plaintiff's protected liberty and property interest were without question violated, same was not absolutely necessary to state a claim as to retaliatory and discriminatory treatment. (see *Zimmerman v. Tribble*, 226 F.3d 568, 573 (7th Cir. 2000); *Dewalt v. Carter*, 224 F.3d 607, 613 (7th Cir. 2000); *Babcock v. White*, 102 F.3d 267, 275-76 (7th Cir. 1996); *Cain v. Lane*, 857 F.2d 1139, 1143 (7th Cir. 1988))

(4)



An inmate may not be transferred to a new prison in retaliation for exercising his First Amendment Rights... (see *Vignolo v. Miller*, 120 F.3d 1075, 1077-78 (9th Cir. 1997))

When an executive agency draws on the freedom the law vests in it the Judiciary can not deny or curtail such freedom. (see *Vitarelli v. Seaton*, 79 S.Ct. 968)

An executive agency must be rigorously held to the standard by which it professes its actions to be judged. (see *Securities & Exchange Commission v. Chenery Corp.*, 318 U.S. 80, 87-88, 63 S.Ct. 454, 459, 87 L.Ed. 626)

Procedure must be scrupulously observed. (see *Servic v. Dulles*, 354 U.S. 363, 77 S.Ct. 1152, 1 L.Ed.2d 1403) Such as Plaintiffs' right to the grievance process; his right to receive mail and make phone calls; well as his obvious right to property interest in the retaining of his discarded legal property; and lastly is his Eighth Amendment Right to be free from cruel and unusual punishment as same relates to him not being allowed a breathing treatment.

#### CONCLUSION

In January of 2008, Plaintiff Jeffery Latham filed a Pro Se civil rights complaint under 42 U.S.C. §1983, and a motion to proceed in forma pauperis in the U.S. District Court, Northern District of Illinois. On February 12th/2008, the Court denied the in forma pauperis motion and dismissed the case upon determination that it was clear from the face of the complaint that Plaintiffs' claims were untimely. The Court noted that Plaintiffs' claims involved an incident in May of 2005 and that he filed his complaint more than two years later in January 2008. Federal Courts use the forum states statute of limitations for § 1983 claims which is two years for personal injury claims in Illinois and where it said to be that an affirmative defense is so clearly plain on the face of the complaint the complaint may be dismissed on preliminary review.

The dismissal of an action for want of prosecution is within the sound discretion of the trial court and should not be disturbed unless there has been an abuse of that discretion. However, it is error to dismiss where a satisfactory explanation of the delay has been given and there has been no intentional or willful disregard of any discretion of the Court. (see *In re Marriage of Daque* [1985], 136 Ill.App.3d 297, 483 N.E.2d 322)

In the instant case at hand, the trial court itself concedes that the appropriate disposition of this case would be to remand it back to the District Court for further consideration.



(see Plaintiffs Exhibit-(A), which is the trial Courts Order)

WHEREFORE, Plaintiff-Pro Se. Jeffery Latham, pray, that this Honorable Court would revest itself with jurisdiction to correct its prior ruling in acknowledgement that the allegations as cited in his complaint being deemed true are sufficient to state a cause of action pursuant to a claim of retaliation.

That, in the alternative, at the very least, this Court seize the opportunity to inform the Appellate Court of the fact that although this case is pending on appeal and that as a matter of law the District Court does not have jurisdiction to hear Plaintiffs Fed.R.Civ.P. 60(b) motion in relief from judgment, this Court would be inclined to to grant such a motion. In that, given further review of the complaint by the District Court the complaint reveals that said Plaintiff has in fact stated a timely claim of retaliation and this Court recommends that a remand of this case would allow this Court to correct its prior ruling on Plaintiffs motion to proceed in forma pauperis. That the ruling in question should have been based solely on Plaintiffs ability to pay the filing fee and not on the merits of his case.

Respectfully Submitted

/s/ Jeffery Latham  
Plaintiff/Pro Se Jeffery Latham

SUBSCRIBED AND SWORN TO BEFORE ME

this 18 day of June, 2008.

Gareth L. Beams  
NOTARY PUBLIC



(y)

STATE OF ILLINOIS     )  
                              )   SS.  
COUNTY OF KNOX        )

AFFIDAVIT

I, Jeffery Latham, Plaintiff-Pro Se., the undersigned, certify and do state:

1. I am the undersigned Plaintiff in the attached "Motion For Relief From Judgment And Memorandum Of Law".

2. I have read the foregoing application and have knowledge of its contents.

3. Under penalty of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set-forth in the foregoing petition are true and correct in substance and in fact to the best of my knowledge and belief. As to those matters therein stated on information and or belief I here by certify that I believe same to be true.

/s/   
JEFFERY LATHAM

SUBSCRIBED AND SWORN TO BEFORE ME

this 18 day of June, 2008.

  
NOTARY PUBLIC



(9)

ADDENDUM TO PLAINTIFF'S  
MOTION FOR RELIEF FROM JUDGMENT  
AND MEMORANDUM OF LAW

Plaintiff request this Honorable Court to allow Plaintiff's Addendum to Plaintiffs motion for relief from judgment and memorandum of law to be heard along with said motion in that after having said motion notarized at the prison law library and immediately before mailing same to the Court Plaintiff acquired crucial evidence via the institutional mail which lends credence to the resolution of the core issue now before this Court: whether Plaintiff was in fact retaliated against by the Defendant.???

1. Plaintiff request the Court to direct its attention to paragraph #3 under the section of Legal Standard; page #4,,, wherein Plaintiff speaks to the Defendants purposeful discarding of his legal material and makes reference to Plaintiffs Exhibit (B) which is a copy of his Resident Personal property Inventory Record which is the accounting of his personal property that was transferred along with him from Stateville C.C. to the Menard C.C. Said document clearly shows that there was'nt any legal material shipped at the time/on the date in question/when Plaintiff was transferred to Menard C.C.. Some time after said transfer Plaintiff filed a grievance pursuant to Stateville's officers and or officials with holding his mail and the fact that he he yet to receive any legal material/property. Plaintiff would ask that the Court take notice of Plaintiffs Exhibit-(C) which is a Counseling Summary dated; 10/25/06, wherein it states: Offenders Grieves that I.A. is holding his mail. C.O. Bauersachs states they are not holding his mail. STA (meaning: Stateville) library states they have legal boxes and will send them to Men (meaning: Menard) Mind you, this is months after Plaintiff was transferred and still his legal material is continuing to be held at Stateville when they should have been shipped along with the rest of his Personal Property on the day he was transferred per - departmental rule. When an inmate is transferred, days before the Law Library Supervisor is informed whereas he can make ready any and all of that inmates excess legal storage box(es)/legal property for shipment. Also, inmates are allowed to have what is termed a correspondence box in his cell where he is to store his legal material when those items are kept in the cell. There was not legal material cited on the inventory sheet,,, so how can this be justified? It cant!!! Lastly, please take notice of Plaintiffs Exhibit-(B) third sheet which is a Resident Personal Property Inventory Record Sheet for what is termed "Catch-Up" property items which were not shipped along with the rest of Plaintiffs property the day he was transferred. This gives insight into the mindset of Statevilles Officials for if they intended to do the right thing said legal property would have been shipped on the date or before that of the catch-up personal property was. (see Exhibit(s) - (B) & (C))

## STATE OF ILLINOIS - DEPARTMENT OF CORRECTIONS

## RESIDENT PERSONAL PROPERTY INVENTORY RECORD

Exhibit  
(B)

1. CORRECTIONAL CENTER <b>STATEVILLE Correctional Center</b>		2. DATE PACKED <b>9-1-06</b>
3. RESIDENT (OWNER OF THE PERSONAL PROPERTY) <b>LATHAM, JEFFREY</b>		4. REGISTER NO. <b>030158</b>
5. DATE TRANSFERRED: <b>9-1-06</b>		6. TRANSFERRED TO: <b>Menard</b>
7. WHERE PROPERTY SENT (WITH THE RESIDENT OR TO ADDRESS GIVEN ON BACK)		
MISCELLANEOUS		

4	1	2			
Ash Trays		Eyeglasses		Music Books	
Ball Point Pens		Eyeglass Case	2	Photo Albums	5
Can Openers		Jigsaw Puzzles		Photographs without frames	Books
Cards, Greeting		Law Books		Plants	Magazines
Checker Set		Lead Pencils	1	Playing Cards	Posters, Wall
Chess Set		Legal Papers		Shoe Polish	Paintings, Unframed
Chess or Checker Board		Legal Documents		Shoe Brush	Paintings, Framed
Court Transcripts		Letters	2	Soap Dish	Ice Chest or Cooler
Dictionary <b>American Heritage</b>	12	Notebooks		Suitcases	Bracelets
Ear Plug		Mechanical Pencils		Trunks	2 Necklaces <b>Religion</b>
Erasers		Medication		Photographs with Frames	Rings
					Wallets

2 Knee braces      1/2 bottle of vitamins  
 1 bowl  
 1 Quaran  
 1 Set of dominas  
 13 Markers

1 Cigarettes **Newports**  
 Cigarette Lighters  
 Cigars  
 Coffee

Plaintiff's  
 Exhibit - (B)  
 4 - sheets of Resident  
 Personal Property Inventory  
 Record Sheet (s)

acco  
 Pouches

3 Boxes

## COSMETICS

		2	
Chap Stick		Nail Clippers <b>1 TOE NAIL</b>	
Combs	2	Soap, Bars	2
Dentures, Upper, Lower	1	Shaving Cream	1
4 Deodorant, Sticks	2	Talcum Powder <b>Baby</b>	
Deodorant, Spray		Baby Lotion	
Hair Brushes			

Exhibit (B)

RESIDENT'S NAME <b>LATHAM, JEFFREY</b>	REGISTER NO. <b>B30158</b>	DATE <b>9-1-06</b>
CLOTHING		

<input type="checkbox"/> Dress Boots <input type="checkbox"/> Work Boots <input type="checkbox"/> Houseslippers <input checked="" type="checkbox"/> Shower Shoes <input type="checkbox"/> Gym Shoes <input type="checkbox"/> Dress Shoes <input type="checkbox"/> Belts <input checked="" type="checkbox"/> Undershorts, Briefs <input checked="" type="checkbox"/> Undershorts, Boxer <input checked="" type="checkbox"/> T-Shirts, White	<input checked="" type="checkbox"/> T-Shirts, Colored <input type="checkbox"/> Undershirts <input type="checkbox"/> Colored Tank Shirts <input checked="" type="checkbox"/> Thermal Underwear <input type="checkbox"/> Handkerchiefs <input checked="" type="checkbox"/> Socks, White <input type="checkbox"/> Socks, Colored <input type="checkbox"/> Sweatshirts <input type="checkbox"/> Suits, Two Piece <input checked="" type="checkbox"/> Thermal shirt	<input type="checkbox"/> Suits, Three Piece <input type="checkbox"/> Sport Coats <input type="checkbox"/> Jeans, Blue <input type="checkbox"/> Jeans, Other Colors <input type="checkbox"/> Neckties <input type="checkbox"/> Sweaters <input type="checkbox"/> Pullover Shirts <input type="checkbox"/> Dress Shirts <input type="checkbox"/> Dress Pants <input type="checkbox"/> Jackets, Leather	<input type="checkbox"/> Jackets, Other <input type="checkbox"/> Coats, Leather <input type="checkbox"/> Coats, Other <input type="checkbox"/> Caps <input type="checkbox"/> Hats <input checked="" type="checkbox"/> Gloves <b>BROWN</b> <input type="checkbox"/> Umbrellas <input type="checkbox"/> Scarves <input checked="" type="checkbox"/> grey shorts <input checked="" type="checkbox"/> shoe inserts
---	---	---	---

1	bible cover + 1 bible
2	Religious headgarments
2	do rags
1	car warmer
1	cup
1	black belt

CRAFT SUPPLIES
----------------

<input type="checkbox"/>	Painting Supplies	<b>90 color pencils, 1 pack of pastel chalk, 1 pack of crayola markers</b>
<input checked="" type="checkbox"/>	Leathercraft Supplies	
<input type="checkbox"/>	Jewelry Making Supplies	
<input type="checkbox"/>	Other, Specify	

LINENS
--------

<input type="checkbox"/> Bedspreads <input type="checkbox"/> Drapes <input type="checkbox"/> Sheers <input type="checkbox"/> Throw Rugs	<input type="checkbox"/> Room Size Rugs <input type="checkbox"/> Sheets <input type="checkbox"/> Pillow Cases	<input type="checkbox"/> Pillows <input type="checkbox"/> Blankets <input checked="" type="checkbox"/> Quilt <input type="checkbox"/> Towels, Bath	<input type="checkbox"/> Towels, Hand <input type="checkbox"/> Washcloths
--	---	---	--



RESIDENT NAME: <u>Latham Jeffrey</u>	REGISTER NO. <u>630158</u>	DATE: <u>9-1-06</u>
PERMIT ITEMS		

(On each item on this page, please specify brand, description, and model or serial number if available:)

Typewriter: <u>Cannon Typewriter ST2048 155</u>	Lamp: <u>2 clip on fans (1 blk + 1 white)</u>
Musical Instrument:	Headphones: <u>1 Koss Headphones</u>
Razor:	Fishing Equipment:
Wristwatch: <u>1 silver watch</u>	Alarm Clock:
Pocket Watch:	Calculator: <u>1 calculator</u>
Fan: <u>Kool Operator Jr Fan</u>	Coffee Pot:
Hair Styler/Dryer:	Popcorn Popper:

(On the stereo equipment, please specify function as well as the above information: Television, AM Radio, AM/FM Radio, 8-Track player)

- (1) 1 "13" Secure View Television serial #924575883
- (2) 1 typewriter ribbon 2 extension cords
- (3) 1 pack of AA batteries 1 calculator
- (4) 2 AC adaptors 1 co ax cable
- (5) 1 TV ANTENNA

Eight Track Tapes: No.	Cassette Tapes: No. <u>47</u>	Records: No.
---------------------------	----------------------------------	-----------------

PLEASE SEND THE ITEMS I CANNOT TAKE WITH ME TO THE FOLLOWING NAME AND ADDRESS:

NAME	PHONE NUMBER OF THIS PARTY
ADDRESS	ACI

I hereby certify that the Personal Property Sheets I am signing contain a true and complete listing of my personal property.

Resident's Signature: \_\_\_\_\_ Number: \_\_\_\_\_

Dates: \_\_\_\_\_

Witness: \_\_\_\_\_

Checking Officer(s): Henderson

Listed By: S. Washington

STATE OF ILLINOIS - DEPARTMENT OF CORRECTIONS  
RESIDENT PERSONAL PROPERTY INVENTORY RECORD

1. CORRECTIONAL CENTER		2. DATE PACKED
K3 Latham		10-2-06
3. RESIDENT (OWNER OF THE PERSONAL PROPERTY)	4. REGISTER NO.	5. TRANSFERRED TO:
	B30158	Mon-ADD
6. DATE TRANSFERRED:	7. WHERE PROPERTY SENT: (WITH THE RESIDENT OR TO ADDRESS GIVEN ON BACK)	

**MISCELLANEOUS**

<input checked="" type="checkbox"/> Ash Trays	<input checked="" type="checkbox"/> Eyeglasses	<input checked="" type="checkbox"/> Music Books	<input checked="" type="checkbox"/> Brief Cases
<input checked="" type="checkbox"/> Ball Point Pens	<input checked="" type="checkbox"/> Eyeglass Case	<input checked="" type="checkbox"/> Photo Albums	<input checked="" type="checkbox"/> Books
<input checked="" type="checkbox"/> Can Openers	<input checked="" type="checkbox"/> Jigsaw Puzzles	<input checked="" type="checkbox"/> Photographs without frames	<input checked="" type="checkbox"/> Magazines
<input checked="" type="checkbox"/> Cards, Greeting	<input checked="" type="checkbox"/> Law Books	<input checked="" type="checkbox"/> Plants	<input checked="" type="checkbox"/> Posters, Wall
<input checked="" type="checkbox"/> Checker Set	<input checked="" type="checkbox"/> Lead Pencils	<input checked="" type="checkbox"/> Playing Cards	<input checked="" type="checkbox"/> Paintings, Unframed
<input checked="" type="checkbox"/> Chess Set	<input checked="" type="checkbox"/> Legal Papers	<input checked="" type="checkbox"/> Shoe Polish	<input checked="" type="checkbox"/> Paintings, Framed
<input checked="" type="checkbox"/> Chess or Checker Board	<input checked="" type="checkbox"/> Legal Documents	<input checked="" type="checkbox"/> Shoe Brush	<input checked="" type="checkbox"/> Ice Chest or Cooler
<input checked="" type="checkbox"/> Court Transcripts	<input checked="" type="checkbox"/> Letters	<input checked="" type="checkbox"/> Soap Dish	<input checked="" type="checkbox"/> Bracelets
<input checked="" type="checkbox"/> Dictionary	<input checked="" type="checkbox"/> Notebooks	<input checked="" type="checkbox"/> Suitcases	<input checked="" type="checkbox"/> Necklaces
<input checked="" type="checkbox"/> Ear Plug	<input checked="" type="checkbox"/> Mechanical Pencils	<input checked="" type="checkbox"/> Trunks	<input checked="" type="checkbox"/> Rings
<input checked="" type="checkbox"/> Erasers	<input checked="" type="checkbox"/> Medication	<input checked="" type="checkbox"/> Photographs with Frames	<input checked="" type="checkbox"/> Wallets

1 gray shirt  
1 gym shoe  
1 gray sweat pants  
1 gray sweat shorts

CATCH UP  
C/O J. L. Latham  
10-2-06

**STAPLES**

<input checked="" type="checkbox"/> Cigarettes	<input checked="" type="checkbox"/> Tea
<input checked="" type="checkbox"/> Cigarette Lighters	<input checked="" type="checkbox"/> Pipe Tobacco
<input checked="" type="checkbox"/> Cigars	<input checked="" type="checkbox"/> Tobacco Pouches
<input checked="" type="checkbox"/> Coffee	<input checked="" type="checkbox"/> Pipe

**COSMETICS**

<input checked="" type="checkbox"/> Chap Stick	<input checked="" type="checkbox"/> Hair Picks	<input checked="" type="checkbox"/> Nail Clippers	<input checked="" type="checkbox"/> Baby Oil
<input checked="" type="checkbox"/> Combs	<input checked="" type="checkbox"/> Hair Dressing	<input checked="" type="checkbox"/> Soap, Bars	<input checked="" type="checkbox"/> Toothpaste
<input checked="" type="checkbox"/> Dentures, Upper, Lower	<input checked="" type="checkbox"/> Hair Conditioner	<input checked="" type="checkbox"/> Shaving Cream	<input checked="" type="checkbox"/> Tooth Brush
<input checked="" type="checkbox"/> Deodorant, Sticks	<input checked="" type="checkbox"/> Shampoo	<input checked="" type="checkbox"/> Talcum Powder	<input checked="" type="checkbox"/> Tooth Powder
<input checked="" type="checkbox"/> Deodorant, Spray	<input checked="" type="checkbox"/> Cream Rinse or Cond	<input checked="" type="checkbox"/> Baby Lotion	<input checked="" type="checkbox"/> Tweezers
<input checked="" type="checkbox"/> Hair Brushes			



## State of Illinois - Department of Corrections

## Counseling Summary

Exhibit  
(c)

IDOC #	B30158	Counseling Date	10/25/06 15:02:19:078
Offender Name	LATHAM, JEFFREY	Type	Collateral
Current Admit Date	02/09/1996	Method	Other
MSR Date	09/22/2026	Location	MEN COF
HSE/GAL/CELL	R3-C-78	Staff	ALMS, JAMES E, CORRECTIONAL COUNSELOR II

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Offender grieves that I.A. is holding his mail. C.O. Bauersachs states they are not holding his mail. STA Library states they have legal boxes and will send them to MEN.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	JAMES F. HOLDERMAN	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 303	DATE	May 29, 2008
CASE TITLE	Jeffery Latham (B-30158) v. Joseph Burke, et al.		

DOCKET ENTRY TEXT:

Plaintiff's motion for an extension of time to file a notice of appeal [6] is denied as moot. Plaintiff's motion for the appointment of counsel for his appeal [15] is denied without prejudice to Plaintiff refiling it in the Seventh Circuit Court of Appeals. Plaintiff's motion for leave to appeal *in forma pauperis* [17] is granted. The court assesses Plaintiff an initial partial filing fee of \$9.00. The clerk is directed to send a copy of this order to the trust fund officer at the Hill Correctional Center and the FLRA-Attorney, U.S. Court of Appeals. The Fiscal Department shall allocate funds received to the appellate case, *Latham v. Burke*, No. 08-1911, until the \$455 appellate fees are paid.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

In January of 2008, Plaintiff Jeffery Latham (B-30158) filed a *pro se* civil rights complaint under 42 U.S.C. § 1983, and a motion to proceed *in forma pauperis* in this Court. On February 12, 2008, the Court denied the *in forma pauperis* motion and dismissed the case upon determining that it was clear from the face of the complaint that Plaintiff's claims were untimely. The Court noted that Plaintiff's claims involved an incident in May 2005 and that he filed his complaint more than two years later in January 2008. See *Jenkins v. Village of Maywood*, 506 F.3d 622, 623 (7th Cir. 2007) (federal courts use the forum state's statute of limitations for § 1983 claims, which is two years for personal injury claims in Illinois); see also *Walker v. Thompson*, 288 F.3d 1005, 1010 (7th Cir. 2002) (when an affirmative defense is so plain from the face of a complaint, the complaint may be dismissed on preliminary review).

★ Plaintiff then filed the following: a motion for extension of time to file a notice of appeal; a notice of appeal; and a motion for the appointment of counsel for his appeal. He also filed in the Seventh Circuit a motion to proceed *in forma pauperis* on appeal, which the Seventh Circuit has transferred to this Court. The motion for extension of time to file a notice of appeal is denied as moot, given that the notice of appeal was timely filed. The motion for the appointment of counsel is denied without prejudice to Plaintiff filing the motion in the Seventh Circuit.

(CONTINUED)

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PLAINTIFF'S  
EXHIBIT - (A)  
2-SHEETS OF U.S. DISTRICT COURT COURT'S ORDER

## STATEMENT (continued)

✦ With respect to the motion to proceed *in forma pauperis* on appeal, this Court finds that Plaintiff has taken the appeal in good faith. See 28 U.S.C. § 1915 (a)(3). Accordingly, the Court grants Plaintiff's motion for leave to appeal *in forma pauperis* and, pursuant to 28 U.S.C. § 1915(b)(1), assesses Plaintiff an initial partial filing fee of \$9.00. The trust fund officer at Plaintiff's current place of incarceration is ordered to collect, when funds exist, the partial filing fee from Plaintiff's trust fund account and pay it directly to the clerk of court. After payment of the initial partial filing fee, the trust fund officer at the correctional facility where Plaintiff is confined is authorized to collect monthly payments from Plaintiff's trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from Plaintiff's trust fund account shall be forwarded to the clerk of court each time the amount in the account exceeds \$10 until the full \$455 filing fee is paid. All payments shall be sent to the Clerk, United States District Court, 219 S. Dearborn St., Chicago, IL 60604, attn.: Cashier's Desk, 20th Floor, and shall clearly identify Plaintiff's name and the case number assigned to this action, and the docket number assigned to the appeal by the Court of Appeals, which is No. 08-1911. If Plaintiff is transferred to another institution, the trust fund officer at the new institution shall be informed of this order and shall be responsible for making deductions and payments in accordance with this order ✦

Although this case is pending on appeal, and although Plaintiff has not formally filed a motion for relief from judgment under Fed. R. Civ. P. 60(b), the Court nonetheless notes that it would be inclined to grant such a motion if Plaintiff's current motions could be construed as a Rule 60(b) motion or if Plaintiff filed a Rule 60(b) motion. See *Boyko v. Anderson*, 185 F.3d 672, 675-76 (7th Cir. 1999); *Brown v. United States*, 976 F.2d 1104, 1110-11 (7th Cir. 1992) (although a district court does not have jurisdiction to grant a Rule 60(b) motion while an appeal is pending, the district court may inform the appellate court that the district court would grant such a motion so that the appellate court may remand the case). Further review of the complaint reveals that Plaintiff may have stated a timely claim of retaliation. See *Hoskins v. Lenear*, 395 F.3d 372, 375 (7th Cir. 2005); *Babcock v. White*, 102 F.3d 267, 275 (7th Cir. 1996). Also, the ruling on Plaintiff's motion to proceed *in forma pauperis* in this Court should have been based solely on Plaintiff's ability to pay the filing fee and not on the merits of his case. See *Hains v. Washington*, 131 F.3d 1248, 1250 (7th Cir. 1997). A remand of this case now would allow this Court to re-address Plaintiff's motion to proceed *in forma pauperis* in this Court and to re-address whether Plaintiff has sufficiently stated a valid claim permitting his complaint to proceed forward.